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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/319,842 08/09/99 WESTERMANN

K 686

PM82/0828

EXAMINER

STRIKER STRIKER & STENBY  
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HUNTINGTON NY 11743

ERNESTO, G

ART UNIT

PAPER NUMBER

3629

DATE MAILED:

08/28/00

November 28, 2000

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

 <b>Office Action Summary</b>		Application No.	Applicant(s)
		09/319,842	WESTERMANN ET AL.
		Examiner	Art Unit
		Ernesto Garcia	3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

#### Status

- 1) Responsive to communication(s) filed on 29 June 2000.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-8 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - a) All b) Some \* c) None of the CERTIFIED copies of the priority documents have been:
    1. received.
    2. received in Application No. (Series Code / Serial Number) \_\_\_\_\_.
    3. received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

#### Attachment(s)

- |  |  |
|--|--|
| 15) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                             | 18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 16) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 17) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 20) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Specification***

The disclosure is objected to because of the following informalities: a new copy of the specifications needs to replace the non-conforming 1-inch bordered margin submitted to the Office; applicant is reminded that the new copy should not contain any amendments entered; on page 1, line 3- the description "according to the preamble to claim 1" needs to be removed"; and on page 6, in line 25- a typographical occurs in the word "fact". Appropriate correction is required.

### ***Claim Objections***

Claims 1, 6, and 7 are objected to because of the following informalities: in claim 1, the preamble is long, and it describes the hub as a different identity not connected to the bearing; claim 7 recites "the additional lateral struts" in line 3 does not agree with the recitation "an additional lateral strut" in claim 6 in line 2. Therefore, it is unclear how many struts there are. The Examiner has considered that there is one (additional) lateral strut at the ends of the side walls as recited by claim 6, and not more than one strut. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the limitation "a number of lateral struts extend in the longitudinal direction on both sides of the hub" is unclear. It appears that the lateral struts are projecting from the hub instead of the wall as shown in the drawings.

The term "the inside" in claim 7 is a relative term, which renders the claim indefinite. The term "the inside" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. This limitation is unclear since the location of the detent projection could be inside the hub or inside the clearances.

Regarding claim 2, the word "means" is preceded by the word(s) "of beads" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding

"means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Regarding claim 8, the phrase "to such" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 3-8 are rejected under 35 U.S.C. 102(b) as being anticipated by the European patent 655, 373. The European patent discloses in Figure 1 a bearing element 10 having two side walls 12 (Fig. 2) connected by a hub 32; and a number of lateral struts 54, 58, 44 which extend in the longitudinal direction on both sides of the hub. Furthermore, the European patent discloses in Figure 1 clearances of the side walls 12 are different sizes on opposite ends 22 and 24.

Regarding claim 3, an outer contour of the hub 32 has a contact face 36 with a small bending radius 30 and a smaller material thickness. Furthermore, the bearing

element has a first lateral strut 54 disposed at a distance in the longitudinal direction that corresponds to the smaller material thickness (Fig. 1).

Regarding claim 4, the first lateral strut 54 has a contact face 52 with a larger bending radius and a larger material thickness (Fig. 1). Figure 1 shows a second lateral strut 58 is disposed at a distance in the longitudinal direction that corresponds to the larger material thickness.

Regarding claim 5, the second lateral strut 58 has a flattened contact face that is oriented towards the hub 32 (Fig. 1).

Regarding claim 6, the European patent '373 discloses an additional lateral strut 44 is disposed at the ends of the side walls 12.

Regarding claim 7, on the side walls 12 starting from the additional lateral struts 44 (Fig. 1) at least one detent 48 projection is disposed on the inside.

Regarding claim 8, the European patent '373 teaches the detent projection 48 is disposed, in relation to the additional lateral struts, in the longitudinal direction.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over the European patent 655,373 in view of the French patent 2,631,300. The European patent fails to disclose beads to reduce the clearance of the side walls. The French patent '300 discloses in Figure 2 beads 25 to reduce the clearance of the side walls. The French patent chooses to make the clearances with beads to eliminate transverse clearance between an arm and the bearing. Therefore, as taught by the French patent, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the clearances from beads in order to eliminate transverse clearance between an arm and the bearing.

***Conclusion***

The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kim shows a similar bearing, and Sweden patent 226,017 shows additional lateral struts.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 703-308-8606. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H. Browne can be reached on 703-308-1159. The fax number for the organization where this application or proceeding is assigned is 703-305-3597 for regular communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.

E.G.

LYNNE H. BROWNE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3620

August 22, 2000